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*BY*

*HENRY VAN DYKE, D. D.*

*NEW YORK*

*CHARLES SCRIBNER'S SONS*

*1888*

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This is also the doctrine of reason and philosophy. It matters not what theory of the origin of Government you adopt, if you follow it out to its legitimate conclusions, it will bring you face to face with the moral law. If you go back to the old theory of Divine Right, it will force you to admit that "the powers that be" could not have been ordained of God for any other than righteous purposes. If you accept the theory of the Social Contract, you must acknowledge that the quality of that contract depends upon the goodness or bad-

ness of the ends for which it has been formed and the means by which it is executed. If you found your theory of the State, as our own is founded, upon the idea of natural rights which are common to all men, and for the protection of which the nation is established, you will have to recognize that, in the last analysis, these natural rights are nothing but moral principles in flesh and blood, and that they can be supported and defended only on the ground of an eternal justice which ordains that every man shall receive that which is his due.

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The refusal of our country to protect all men equally in the use and enjoyment of the product of their mental labor, the absence of an equitable and universal law of copyright, and the consequent practice of reprinting and selling the books of foreigners without either asking their consent or offering them any payment, has been generally regarded as a question of politics, of economy, of national courtesy. But at bottom, as Mr. Lowell has said, it is a question of right and wrong; and therefore it needs to be separated from the confusions of partisanship and the considerations of self-interest, and brought into contact with the Ten Commandments.

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not "an olive-branch," which is generally crooked, but a good, straight oaken ruler, to measure and regulate our conduct in accordance with justice.

If we will apply this standard, we shall find out where we are and what we are doing. We shall be able to see that what has been euphoniously called "the present method of uncompensated republication of books" brings us squarely up against the moral law; and that, therefore, the Christian Church, as a "guardian of private and public morals," is not only entitled, but also bound, to take it up, and deal with it soberly and earnestly. It belongs to the department of Applied Ethics, which the Church can never afford to make an optional course. It is a subject in regard to which the pulpit has many reasons for speech, and no apology for silence. The preacher is moving straight along the line of practical Christianity when he invites you to consider the National Sin of Literary Piracy; its nature; its punishment; and its cure.

1. The right of every man to enjoy the fruit of his own toil and the reward of his own industry is universally acknowledged as a foundation-principle of social morality: and nowhere is it more clearly stated, or more strongly enforced, than in the Bible.

"This," says Ruskin, "is the first point to be secured by law, and without this no political advance, no political existence is in any sort pos-

sible. Whatever evil, luxury, iniquity may seem to result from it, this is nevertheless the first of all equities; and to the enforcement of this, by law and the police-truncheon, the nation must always primarily set its mind—that the cupboard-door may have a firm lock to it, and no man's dinner be carried off by the mob on its way home from the baker's." Now, one of the forward steps of Christian civilization has been the extension of this moral principle from physical to intellectual labor, and the protection of men in the enjoyment of that which they have produced with their brains, as well as of that which they have made with their hands. And in this there has been not only the recognition of an equitable right, but also a due regard for the welfare of the community. For it is evident that without such protection those who are engaged in the toil of thought, of invention, of discovery, will be placed at an immense disadvantage; they will not be able to support themselves; they will be discouraged and driven by necessity into other kinds of work; and thus the mental activities of the nation will be suppressed by a manifest injustice to those who lead them.

If the man who weaves the cloth for your coat is entitled to his fair wages, is not the man who finds out a better and quicker method of weaving cloth entitled to his wages? If the man who prints and binds the book which you wish to

possess has a right to be paid for his labor, has not the man who writes that book a right to be paid for his labor? If you say to the inventor or the author, "You must work for nothing," are you not doing him an injustice, and virtually telling him that he had better stop work altogether?

The moral sense as well as the common sense of mankind has returned an affirmative answer to these questions; and that answer has taken shape in the law of patents and the law of copyright. Take this latter word and turn it around, and you will see exactly what it means. Copyright is the right to copy.

The value of any literary work depends upon the form which it gives to those ideas which belong to the common stock of truth. This form is the result of toil,—toil which is more arduous and exhausting, toil which requires more patience and self-denial, toil which costs a larger outlay of time and money to prepare for it, and a greater wear and tear of vital tissue to execute it, than perhaps any other kind of labor. The disembodied ideas are no man's property; but the embodied ideas, which have been brought into shape and order by the lonely worker in the sweat of his brain, are his own, just as much as the statue carved from the marble is the sculptor's own, just as much as the wheat cultivated in the field is the farmer's own.

Take an illustration. The facts of American

history belong to you and me and every man. There they are, recorded in documents, and preserved in traditions. You may go and dig them out, and make what use of them you please. But suppose you say, "That is impossible. I am too busy in making shoes or hats, in building railroads, or in keeping a bank. I have neither the time nor the skill for historical research. If I should undertake it, my business would suffer and my children starve." Well, then, here is a man who takes the time and cultivates the skill. He gives up other occupations, and exhumes the story of your country, and sets it in order, and writes it in a book. Are you so mean that you will take that book from him without paying him for it? Or, again, the materials of fiction are common property. You may sit down to-night and weave your experiences of life and your conceptions of character into a great novel. But suppose you are not quite clever enough for that, and your time of physical rest hangs heavy upon your hands. Here comes a man who has constructed, by patient labor of the imagination, a story which charms and enlivens your leisure, perhaps also instructs and helps you to a more cheerful and useful life. Do you not owe him something? Has he not deserved at least as well of you as the painter who decorates your walls, or the cook who prepares your dinner?

Now, there is no way in which the reward of

the author's work can be fairly and firmly secured to him except by giving him the exclusive right (at least for a limited period of time) to publish and sell his own work. This has been admitted by every civilized nation in the world. Public reason, revolving about the great principle of justice, has consolidated itself into laws for the protection of the products of mental labor. The constitution of Germany confers upon the Imperial Government the prerogative of *der Schutz des Geistigen Eigenthums*—the defence of intellectual property. The law of Great Britain declares that "copyright shall be deemed personal property." The Constitution of the United States says that "Congress shall have power to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." An early law of Massachusetts defines the principle still more clearly when it asserts that this security "is one of the natural rights of men, there being no property more peculiarly a man's own than that which is produced by the labor of his mind."

But where, then, is the national sin in this matter, since our country recognizes the principle of justice involved and enforces it by a law of copyright? The sin, my brethren, lies in the stupefying fact that ours is the only civilized Christian country on the globe which deliberately and persist-

ently denies to foreigners the same justice which it secures to its own citizens, and declares that the intellectual property of an alien shall be forfeited and confiscated the moment it touches our shore or crosses our border. This nation says to the German, the Frenchman, the Englishman, "You have written a book. We want it, and we propose to take it. You have no rights that we are bound to respect. We shall reprint your work, and mutilate it and sell it, and do as we like with it, and you shall never receive a penny for it."

Observe what this means. It means that a foreigner is *hostis*—an enemy. This was the avowed theory of the old heathen world, and under its influence piracy became a lawful and profitable industry. "Man, upon the waters, and the shark, in them, had a common right to feed upon what they could subdue." A curious survival of this theory was seen in the last century in France, when there was a law in force by which all the personal property of a stranger dying in that country was confiscated by the king. But to-day its sole relic is the peculiar shame of our own nation, which affirms that, in literature, piracy is honorable, and a foreigner is a foe who deserves no protection and no mercy.

This means, also, that our country is willing to discriminate against a class, and to perpetrate upon the author an injustice which it would not permit to be inflicted upon any other man. For

the foreign inventor can protect the products of his genius in America by patenting them; and the foreign traveller, coming to New York, has no fear that the Government will allow anyone who takes a fancy to his overcoat or his portmanteau to walk off with them. But the foreign writer is informed that his property will be brought over here "for the express purpose of being stolen;" brought here without his consent, and against his protest, in order that other men may reap the fruit of his toil and make him no return.

But the meaning of this amazing attitude of our country toward literary property is not yet exhausted. There is something still more marvellous about it. For it means that the United States is determined that, of all its own laboring classes, the intellectual class alone shall be forced to compete, not with the underpaid labor of Europe, but labor which is absolutely not paid at all. First, it makes the foreign writer a pauper within its bounds, and then it says to the native writer, "You shall take your chance with this pauper; and if the bookseller can sell his works cheaper than yours, for all we care, you shall starve."

There is not another country in the world which ventures to take such a position. It is equally absurd and shameful, unjust to others and suicidal to ourselves. And while Germany, and France, and England, and all the enlightened nations are

waiting for us to recede from it, and conform to the moral sense of the civilized world, it seems to me the duty of every honest American to confess that literary piracy is an infraction of the commandment which says "Thou shalt not steal," as well as of the commandment which says "Thou shalt not covet anything that is thy neighbor's."

2. The punishment of a national sin does not have to wait for the day of judgment. It begins at once. And it usually proceeds along the line of the transgression, paying its interest in a currency stamped with its own image and superscription.

One form of our punishment is the perversion of national taste and manners by the vast circulation of foreign books that are both cheap and bad.

When a thief gets into your library, the probabilities are that he will not carry off Hodge's "Theology" or Jay's "Morning Exercises." He will seek diligently for something more to his liking. If you will look over the contents of one of our railway book-stalls, you will see how this same principle works in directing the course of literary piracy. Nine-tenths of the books that are stolen are novels, and nine-tenths of these are novels of a doubtful character. It is no advantage to what is called, by courtesy, our reading public, to have these silly or pernicious tales offered to them for almost nothing. And even

if they were unobjectionable from a moral point of view, it would still be unprofitable to have the bulk of our fiction brought to us from abroad. The imagination is the most easily colored of all the mental faculties. The influence of the novel upon the young men and women who read it is subtle, but most potent. The decline of the American spirit in a certain class of our youth; the loss of simplicity and naturalness and independence; the failure of that lawful pride in American institutions and principles which alone can preserve the freedom of our republic; the simian mimicry of English models and the development of that curious species of Anglomaniac of which the male creature only has received a name—all these disagreeable and dangerous symptoms are to be traced chiefly to the influence of commonplace English fiction, which at its best is saturated with feudal superstitions and insular prejudices, and at its worst reflects "as in a looking-glass" the manners and morals of what is called "the Sandringham set." It would be no loss to us if these books cost twenty times as much as they do today. It is one of our punishments that they cost so little that everybody is tempted to read them.

Another form of our punishment is the partial atrophy of our native literature. Some few men and women we have who have been able to live by the pen, eking out the poor returns from their books by the more liberal rewards of our

splendid magazines; there are a few who have supported themselves in intellectual pursuits by inherited wealth, and more who have bravely toiled at the bread-winning tasks of business, of teaching, of professional duty, and snatched from sleep the hours in which they might write something that the world would not willingly let die. But until we remove the discouragements, and give to our writers the same protection which we give to other laborers, how can we hope that a great national literature will rise and flourish in our land?

That, indeed, would be the crown and consummation of our country. It would touch the names of our lakes and rivers and mountains with the glory of poetry. It would unfold and illuminate our complex, manifold, free, vigorous life in enduring works of fiction. It would express the strenuous activities of our people in forms of native eloquence. It would give us new and grander conceptions of church and state and humanity. It would stimulate and ennoble the national character while it voiced the national aspirations. It would proclaim, in words of imperishable beauty and power, the central truth by which our country lives, that *Liberty is not license, but equity secured by law to every man.*

For such a literature we have waited a century. Promises and foretastes of it have been given to us by writers whose courage is no less admirable than their genius. But that we are still waiting

for the fulness of our hope deferred is one of the punishments of our national sin of literary piracy.

Another form, and decidedly the worst form, in which that sin is visited upon us, is the weakening and degeneration of the popular conscience.

A palpable contradiction between profession and practice is the most demoralizing influence that can exist in any community. Our country professes to be founded upon justice, upon the desire to secure to every man his natural rights; and yet it refuses to recognize the rights of intellectual property within its borders, if the owner is a citizen of another country. What must be the effect upon the moral sense of the nation? It will not differ one whit from the effect which will be produced upon the moral sense of your boy, if you tell him, "My son, it is a sin to steal a pin, but it is not a sin to steal a book from an Englishman."

Let us not imagine that this is a slight or trivial matter, unworthy of our serious attention, or out of place in the sober atmosphere of the church. It is true that there is nothing about the subject to arouse the emotions and kindle a great popular indignation. A preacher cannot speak of it as he might speak of the cruelties of a tyrant, or the horrors of the slave trade. But perhaps that is the very reason why it is the more necessary to utter a sincere, calm, straightforward word in regard to it from the pulpit. Of the two kinds of moral evil I know not which is the more perilous—the

flagrant offence, which destroys by catastrophe, or the obscure, seeming-venial, oft-repeated fault, which destroys by decay—

> "The little pitted speck in garnered fruit,
> Which, rotting inward, slowly moulders all."

Surely a clean and sensitive conscience, a steadfast and scrupulous integrity in small things as well as great, is the most valuable of all possessions, to a nation and to an individual. The Christianity which does not produce and preserve this, is defunct, obsolete, futile. And the sin which threatens to impair, if not to destroy it, is one which the Christian preacher ought to expose with candor and condemn with vigor.

3. The cure of a national sin, in a republic, rests in the hands of the people. They have the authority; and the responsibility goes with it; and you and I have a share in both. It is idle to blame the men who print and sell books; indeed, it would be unjust, for the respectable publishers, heartily sick of the demoralized condition of their trade, are now united with the authors in protesting that the present condition of affairs is shameful and must be changed. The only thing that can prevent or delay such a change is the moral apathy of decent people and their willingness to buy cheap goods without asking whether they are honest. This is what needs to be broken up. The public conscience must be quickened. A

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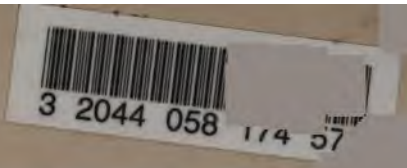


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moral sentiment must be aroused; and this sentiment must be consolidated into a general sense of equity; and this sense of equity must be embodied in a law of equal protection for all men in the possession of their intellectual property.

Has the Church nothing to do with this? Has the Bible nothing to say about it? Let me give you four texts to meditate upon:

*Let him that stole, steal no more.*—Eph. iv. 28.
*Render therefore to all their dues.*—Rom. xiii. 7.
*Provide things honest in the sight of all men.*—2 Cor. viii. 21.
*Walk honestly toward them that are without.*—1 Thess. iv. 12.

When we take these words at their fair meaning, we realize that the task and the triumph of our religion is to make men and nations true and just and upright in all their dealings, and to bring all law, as well as all conduct, into subjection and conformity to the law of God.

This is the direction in which we need to set our aspirations and endeavors. If this ideal should clearly dawn upon us it would purify our love of country with the fire of virtue. Then should we understand that the glory of the state lies not in wealth or martial power, but in fair-dealing and integrity and honor; then should we behold, as in Milton's splendid vision, our mighty and puissant nation shaking off the chains of ignorance and iniquity, and, like an eagle, mewing her undazzled sight at the sun of justice; then

should we be amazed and ashamed that the mean sin of literary piracy has been so long a reproach to us, and take a clean, straight step away from it toward that righteousness which exalteth a nation.

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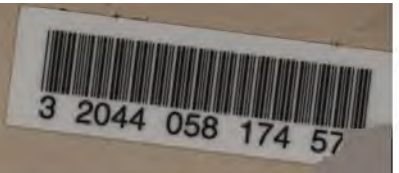


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